

Art Unit 2108

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-11 are rejected under 35 U.S.C. § 103 as being unpatentable over known prior art in view of Lockwood (USP 4,359,631).

Credit card readers, touch activated display screens, flat bed scanners, fax/data modems, laser printers, computers with programmable memory and pre-stored information, and interface devices between computers are all notoriously well known devices in the prior art. Applicant has merely combined these known devices in a housing or stand alone kiosk for user access, control, and information exchange.

Lockwood discloses a kiosk containing devices including a credit card reader, display screen, user data input and control means, information vending means, communication means,



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microprocessor, programmable memory, pre-stored information, and dynamic memory ~~in a kiosk~~ for user access, control, and information exchange.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combined the well known devices claimed by applicant in a kiosk as taught in Lockwood in order to provide an efficient means for dispensing information and services to the general public.

Any inquiry concerning this communication should be directed to Scott Rogers at telephone number (703) 308-0080.

*George H. Miller Jr.*

GEORGE H. MILLER, JR.  
SENIOR PRIMARY EXAMINER  
ART UNIT 218

*SAR*

SAR

February 28, 1992

FINAL REJECTION

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-11 are rejected under 35 U.S.C. § 103 as being unpatentable over well known prior art (MPEP 706.02(a)) in view of Iversen (see article, cited reference R), Chescom Services and Engineering Inc. (see article, cited reference S), and Lockwood et al. (USP 4,359,631).

Touch activated display screens for presenting selectable functions of a device and for initiating and controlling said functions upon touch selection, flat bed scanners for scanning a document to be transmitted and/or copied, modems for transmitting scanned document data, power and control means for operating

multiple devices, credit card readers for enabling the function of a device and to pay for use of said device, printers (such as plain paper laser printers) for printing facsimile images, computers with means to selectively receive, store, and output facsimile images and non-facsimile images (such as pre-stored data, data received from an external source, or data retrieved through a network), and interface devices for connection between a facsimile device or computer and external computers are all notoriously well known devices in the prior art.

Iversen discloses a kiosk with a facsimile transmission device comprising a facsimile transceiver with scanner, modem, and operator control means offering the public a combination of information exchange services.

Chescom Service and Engineering Inc. (referred to hereafter as Chescom) discloses the combination of a display screen and touch-tone phone in a kiosk to offer the public a combination of information exchange and merchandise ordering services.

Lockwood et al. discloses a kiosk containing a credit card reader, display screen, user data input and control means, information vending means, modem means, microprocessor, programmable memory, pre-stored information, and dynamic memory for providing the public with access to a combination of information exchange services.

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Applicant has merely combined these known devices in a housing or stand alone kiosk for user access, control, and information exchange, the concept of which is taught in Iversen, Chescom, and Lockwood et al.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combined the well known prior art devices in the claimed combination viewed as a whole with the teachings in Iversen, Chescom, and Lockwood et al in order to provide an efficient and easy to use device offering a combination of information exchange services to the public.

Applicant's arguments filed May 5, 1993 have been fully considered but they are not deemed to be persuasive.

In response to applicant's concern that the arguments filed June 19, 1992 were deemed moot, the examiner wishes to stress that these arguments were never the less fully considered in there entirety to the degree relevant to the scope of applicant's claims. The rejection mailed November 30, 1992, was considered to fully address applicants arguments, again, to the extent relevant to what is actually being claimed.

In response to applicant's concern that the examiner has taken a "broad brush and made a blanket rejection" of claims 1-11, rather the examiner has treated claims 1-11 with a deserved broad interpretation. Specifically, the claims are merely an assembly of

well known devices. Applicant has agreed these devices are known in the prior art (see page 1, last sentence, and page 3, lines 16-19, of arguments filed May 5, 1993). These devices are summarized above, as claimed. The articles from Electronics magazine and the Journal of the Electronics Industry and the Lockwood et al patent were cited to show evidence of public communication apparatus comprising similar devices and features as claimed by applicant. In view of the well known devices assembled by applicant to construct a public facsimile device and in view of the broad concepts taught in the cited articles and the Lockwood et al patent taken as a whole, the device claimed by applicant would have been obvious. It is the examiner's position that it is not necessary that the references actually suggest, expressly or in so many words, the changes or improvements that applicant has made. The test for combining references is what the references as a whole would have suggested to one of ordinary skill in the art. In re Schecler, 168 USPQ 716 (CCPA 1971); In re McLaughlin 170 USPQ 209 (CCPA 1971); In re Young 159 USPQ 725 (CCPA 1968). The above 35 USC 103 rejection is not based entirely on what the individual references themselves suggest, it is rather based on what the combination of the disclosures taken as a whole would suggest to one of ordinary skill in the art.

In response to applicants arguments filed May 5, 1993, regarding applicant's concern that the examiner's consideration and judgement of the declaration filed June 19, 1993 is flawed from selective reading of the attached documents, the examiner maintains that the declaration and attached documents have been considered in their entirety but they are not deemed to be persuasive (see MPEP 716, section 4).

The examiner believes that there is nothing unique about ~~the~~ technology ~~as~~ claimed by the applicant which connects the claims to what has resulted in the invention's success. Success may be related to factors not claimed and the examiner is not convinced that success is related to the technology as claimed. The invention's success does not overcome the obviousness of combining notoriously well known devices.

Nothing in the claims is directed to solving problems in the prior art discussed in the specification. Only known devices providing known functions are claimed in a combination suggested by the prior art of record. Indeed, applicant admits to the combination of known prior art devices (see Exhibit B, 1st column, of the declaration). Although applicant's basis for patentability is to have combined these known devices to provide a new combination of services not found in the prior art, such combinations are suggested for example by Iversen, Chescom, and

Lockwood et al. and the known prior art devices taken as a whole which would have been an obvious ennoblement and motivation to one of ordinary skill in the art at the time the invention was made to have constructed applicants invention.

In Exhibit D, 2nd column, of the declaration, advantages of applicant's invention are discussed. This discussion reflects the normal success experienced in the facsimile industry and more generally to the industries of information communication ~~and~~ exchange. Applicant also discloses the economic boom in these industries (see Exhibit B, column 1). Applicant has not shown that his invention has achieved success above that normally experienced in the industry. The examiner believes applicants success can be attributed to the normal success of the industry.

The statements and discussions in the attached documents to which applicant refers, commenting on applicant's invention, are purely subjective and seem to have been picked by applicant in an attempt to show unusual commercial success. However, there is no objective evidence conforming to the requirements discussed in MPEP 716 section 4, which convinces the examiner that applicant's invention has experienced unusual commercial success. The burden of evidence is on applicant to objectively and quantitatively prove unusual commercial success.



In applicant's view, there is no basis for the examiner's position that applicant has not shown the claimed invention to have achieved success above that normally experienced in the industry because none of the documents attached to applicant's declaration demonstrate normal success in the industry. The examiner disagrees. A qualitative or subjective judgement of what is regarded as the general or normal economic success of the industry is justified in view of the attached documents as discussed earlier. Further, such a judgement is found to be supported by the general market knowledge of one of ordinary skill in the art. In view of the subjective arguments and documentation provided by the applicant, the examiner's basis for judging the success of applicant's invention to be that normally experienced in the industry is believed to be appropriate.

Finally, to address applicant's emphasis on the importance of the touch sensitive screen in the claimed invention in view of comments and discussion in the attached documents, such screens and their use in kiosks or other service devices are well known in the prior art, as discussed above. Again, the statement regarding the use of a touch sensitive screen are purely subjective and do not provide convincing evidence as a reason for unusual commercial success.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

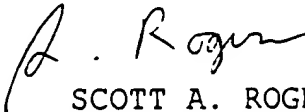
A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

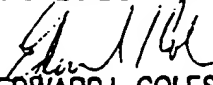
Any ~~inquiry~~ concerning this communication or earlier communications from the examiner should be directed to Scott Rogers whose telephone number is (703) 305-4726.

Any facsimile communication should identify the application serial number, the examiner's name and art unit, and should be transmitted to Group 260 whose facsimile number is (703) 305-9508.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

SAR  
July 20, 1993

  
SCOTT A. ROGERS  
PATENT EXAMINER  
ART UNIT 2612

  
EDWARD L. COLES, SR.  
SUPERVISORY PATENT EXAMINER  
GROUP 2500